

PUBLIC WORKS DEPARTMENT

PUBLIC HEALTH BRANCH

The 6th December, 1974

No. 19156.—Whereas it appears to the Governor of Haryana that land is likely to be needed by the Government at public expense, for a public purpose, namely, providing Water-supply Scheme village Kasan, tehsil and district, Gurgaon, it is hereby notified that the land described in the specification below is required for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894, to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana is pleased to authorise the officers, for the time being engaged in the undertaking, with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested in the above land, who has any objection to the acquisition thereof, may within thirty days after the date on which public notice of the substance of this notification is given in the locality, file an objection in writing before the Land Acquisition Collector, Public Works Department, Buildings and Roads Branch, Ambala Cantt.

SPECIFICATION

District	Tehsil	Locality/ Village	Hadbast No.	Area in acres	Khasra No.	Remarks
1	2	3	4	5	6	7
Gurgaon	Gurgaon	Kasan	129	.08125 acres	341	

O. K. SHARMA,

Superintending Engineer,
Rohtak Public Health Circle,
Haryana P.W.D., Rohtak.

LABOUR AND EMPLOYMENT DEPARTMENT

The 28th November, 1974

No. 11151-4Lab-74/36192.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in, respect of the dispute between the workmen and the management of M/s Omco Industries, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 176 of 1973

between

THE WORKMEN AND THE MANAGEMENT OF M/S OMCO INDUSTRIES, 15/I, MATHURA ROAD, FARIDABAD

Present—

Shri Chaman Lal Oberoi, for the workmen.

Shri R. C. Sharma, for the management.

AWARD

The workmen of M/s Omco Industries, 15/1 Mathura Road, Faridabad had raised certain demands regarding payment of bonus for the year, 1970-71, fixation of grades and scales of pay, supply of uniform, etc., which were not conceded by the management. This gave rise to an industrial dispute. In conciliation proceedings also the management did not show any willingness to meet the aforesaid demands of the workmen.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the dispute for adjudication to this Tribunal,—*vide* order No. ID/FD/73/41000, dated 4th October, 1973 with the following terms of reference:—

- (1) Whether the workmen are entitled to bonus for the years, 1971 and 1972 ? If so, with what details ?
- (2) Whether grades and scales of pay of the workmen should be fixed ? If so, with what details ?
- (3) Whether uniforms should be supplied to all the workers and the workmen of the Mill department should be provided with shoes ? If so, with what details ?

The parties put in their respective pleadings. The management contested the demands of the workmen on several grounds, namely :—

- (1) That the factory was in a State of infancy having started its first production only on 8th April, 1970 and there had been continuous losses.
- (2) That the demands the subject-matter of the present reference, had not first been raised on the management and rejected by it.
- (3) That the Faridabad General Engineering Workers Union had no locus standi to represent the workmen and as such no industrial dispute within the meaning of the law existed between the parties.

From the pleadings of the parties, the following issues arose for determination :—

- (1) Whether the demands the subject-matter of the present reference were first raised on the management and rejected by it ? If not, with what effect ?
- (2) Whether the Faridabad General Engineering Workers Union has locus standi to represent the workmen concerned in the present reference (on workman)
- (3) Whether the workmen are entitled to bonus for the years, 1971 and 1972 ? If so, with what details ?
- (4) Whether grades and scales of pay of the workmen should be fixed ? If so, with what details ?
- (5) Whether uniforms should be supplied to all the workers and the workmen of the Mill department should be provided with shoes ? If so, with what details ?

The management has filed the balance sheet and the profit and loss account statement for the period ended 31st March, 1971 and 31st March, 1972.

No evidence has been led on behalf of the workmen concerned nor any objection to the balance sheet and profit and loss account statement of the management. Shri C. L. Oberoi, authorised representative of the workmen concerned, who had given the demand notice leading to the present reference, has stated that since the workmen concerned have left service of the management and are not coming forward to pursue their demands, as they are no longer interested in the dispute, and have given him no instruction to lead any evidence in support of their demands, he is not in a position to proceed with the reference.

In view of the above statement made on behalf of the workmen concerned and the balance sheet and profit and loss account statement showing no profits during the relevant period the pleas raised on behalf of the management have to be believed. The management being still in a state of infancy, having started its first production on 8th April, 1972 and having incurred losses during the relevant period, it is clearly exempted from the payment of bonus, as contemplated under section 16 of the Payment of Bonus Act, 1965. Inspite of the specific allegations made in the written statement that the demands the subject matter of the present reference, had not first been raised on the management and rejected by it and that the Faridabad General Engineering Workers Union had no locus standi to represent the workmen. No evidence worth the name, oral or documentary, has been led in the case to refute these allegations. The law is well settled. The demands has first to be raised on the management and rejected by it before taking up the matter for conciliation so as to constitute an industrial dispute within the meaning of law, as laid down by the Hon'ble the Supreme Court in the oft quoted judgement in the Sindu Resettlement Corporation case. This important requirement of the law has not been satisfied by the workmen concerned in the instant reference.

So, taking into consideration the facts and the circumstances of the case and the reasons aforesaid, I find that no industrial dispute existed between the parties which could be referred for adjudication and in the absence of cogent and convincing evidence to the contrary the Faridabad General Engineering Workers Union had no *locus standi* to raise the dispute on behalf of the workmen. Issues Nos. 1 and 2 are accordingly decided in favour of the management.

Since the establishment was still in a state of infancy, having started its first production on 8th April, 1970 without earning any profits and having incurred losses from its very inception, it was exempted from the payment of bonus and the workers were not entitled to any bonus for the period in question. For the same reason, the question of fixation of grades and scales of pay or supply of uniforms to them also did not arise due to the poor financial position of the management. That disposes of issues No. 3, 4 and 5 which are also decided against the workmen and in favour of the management. In the result, the award is made against the workmen holding that the demands, the subject-matter of the present reference, having not been raised properly, no industrial dispute existed between the parties which could validly be referred for adjudication and otherwise also the workmen concerned are not entitled to any relief in respect of the demands covered by the reference. There shall, however, be no order as to costs.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Dated the 12th November, 1974.

No. 1550, dated 14th November, 1974.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Dated the 14th November, 1974.

No. 11142-4Lab-74/36194.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of Messrs Dujodwala Industries, Faridabad.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 115 of 1970

between

SHRI DEV RAJ AND THE MANAGEMENT OF MESSRS DUJODWALA INDUSTRIES, N.I.T.,
FARIDABAD

Present:—

Shri Amarjit Singh Chadha for the management.

Nemo for the workman.

AWARD

Shri Dev Raj claimant was in the employment of Messrs Dujodwala Industries, N.I.T., Faridabad. The management allegedly terminated his services with effect from 10th March, 1969 without any justification. He demanded reinstatement but without success. The matter was taken up for conciliation which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the dispute for adjudication to this Court, in exercise of the powers conferred by clause (c) of sub-section (I) of Section 10 of the Industrial Disputes Act, 1947,—*vide* order No. ID/FD/428-B/14964-68, dated 26th May, 1971, with the following term of reference :—

"Whether the termination of services of Shri Dev Raj was justified and in order ? If not, to what relief is he entitled ?"

Usual notices were given to the parties and they put in their respective pleadings. Shri Dev Raj reiterated his claim for reinstatement and payment of back wages as earlier raised through the demand notice leading to the present reference alleging that the termination of his services had been brought about in an illegal manner and without any justification.

On the other hand, the management contested the claim of the workman on several grounds. To start with, it was urged that no demand had been raised direct on the management and there was no industrial dispute as defined under section 2-J of the Industrial Disputes Act, 1947, which could validly be referred for adjudication and as such this Court had no jurisdiction in this matter. It was further pleaded that Shri Dev Ram the present claimant had, in fact, been appointed as a Salesman on probation and his work having not been found to be satisfactory, the management was justified in terminating his services.

The pleadings of the parties gave rise to the following issues :—

1. Whether the present reference is bad in law for the reasons given in the written statement ?
2. Whether Shri Dev Raj was a probationer and not a permanent worker ?
3. Whether the termination of services of Shri Dev Raj was justified and in order ? If not, to what relief is he entitled ?

Before the start of the evidence on either side, the management moved an application for leave to amend the written statement. Notice of the application was given to the workman concerned. He has not filed any reply nor had he appeared on the previous several dates of hearings fixed in the case to pursue his claim.

The management has placed on record a large number of documents including the letter dated 21st August, 1968 asking Shri Dev Raj to join as a Salesman, application of Shri D. V. Raj in his own hand showing his willingness to join as Salesman in view of his previous experience, appointment letter dated 7th September, 1968 showing his appointment as a Salesman on probation for a period of one year, letter of the management dated 6th February, 1969 that his work was not satisfactory, letters dated 6th February, 1969 and 10th February, 1969 of Shri Dev Raj in which he has described himself as a Salesman, daily visit reports of Shri Dev Raj showing that he had been going out for canvassing and promoting the sales, 16 invoices signed by him as a Salesman, Exs. M.1 to M.25.

I have very carefully gone through the material on record and heard the learned representative of the management. A perusal of the large number of documents produced by the management referred to above go a long way to prove conclusively that Shri Dev Raj the present claimant had applied for and been appointed as a Salesman and his main duties were those of canvassing and promoting the sales of the product of the Company. In his application and other documents invoices, daily visits, reports, sales reports, etc., he has clearly described himself as a Salesman. Now the law is very clear on the point. A salesman does not come within the definition of "workman" as defined under section 2-S of the Industrial Disputes Act, 1947.

Assuming for the sake of arguments that he was a workman and not merely a Salesman, as the documents mentioned above purport to show, from the letter of his appointment itself it is clear beyond any shadow of doubt that his appointment was on probation for one year and that the management had reserved the right to terminate his services at any time even during the period of probation, if his work was found to be unsatisfactory. There is the report of the management, Ex. M.4 that his work was not satisfactory. In the circumstances, the management was well within its right to terminate his services with effect from 10th March, 1969 as alleged by the workman. Shri Dev Raj has not brought on record anything to rebut the above conclusions.

That disposes of Issues Nos. 1 and 2 which on the facts brought on record and for the reasons aforesaid are decided against the claimant and in favour of the management.

The contention of the management regarding the invalidity of the reference as covered by Issue No. 1 is also to some extent forceful. The law is well settled on the point. The demand has first to be raised direct on the management and rejected by it before taking up the matter for conciliation so as to constitute an industrial dispute within the meaning of the law as laid down by Hon'ble the Supreme Court in the Sindhu Re-settlement Corporation case. This important requirement of the law does not appear to have been satisfied by Shri Dev Raj claimant in the instant case and, in the absence of cogent and convincing evidence of the workman to the contrary, the presumption is irresistible that no proper demand had been raised in the case, so as to constitute an industrial dispute which could validly be referred for adjudication to this Court. The issue is, therefore, decided against the claimant and in favour of the management.

In view of my above findings on the issues involved in the case, which have been found against the claimant Shri Dev Raj I am of the considered view that he was not a workman as defined under section 2-S of the Industrial Disputes Act, 1947 and no industrial dispute within the meaning of the law existed which could validly be referred for adjudication to this Court, and as such, Shri Dev Raj is not entitled to any relief by way of reinstatement or payment of back wages. The award is accordingly made. There shall be no order as to costs.

Dated the 21st November, 1974.

O.P. SHARMA,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 2730, dated the 25th November, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA,

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 11150-4Lab-74/36196.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Bharat Refactories Corporation, Faridabad.

**BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD**

Reference No. 23 of 1974

between

**SHRI DATA RAM WORKMAN AND THE MANAGEMENT OF M/S BHARAT REFACTORIES
CORPORATION, 12/3, MATHURA ROAD, FARIDABAD.**

Present.—

Shri Roshan Lal Sharma, for the workman.

Shri Kuljeet Singh Factory Manager, for the management.

AWARD

The following dispute between the management of M/s Bharat Refactories Corporation, 12/3, Mathura Road, Faridabad and its workman Shri Data Ram was referred for adjudication to this Tribunal by order No. ID/FD/179/5684, dated 5th March, 1974 of the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947. :-

"Whether the termination of services of Shri Data Ram was justified and in order ? If not, to what relief is he entitled?"

Usual notices were given to the parties and they put in their respective written statements giving rise to the following issues.

- (1) Whether Shri Data Ram the present claimant was only a casual worker and his services were not terminated by the management and as such the present dispute is not covered by section 2-A of the Industrial Disputes Act, 1947? (on management).
- (2) In case issue No. 1 is not proved, whether the termination of services of Shri Data Ram was justified and in order ? If not, to what relief is he entitled ?

It is, however, not necessary to go into the merits of the case and the issues involved as an amicable settlement has been arrived at between the parties and their statements have been recorded. Shri Data Ram workman concerned had admittedly put in service hardly for six months and that too with breaks. The management has agreed to pay to him his legal wages within a week, after verification of the relevant records in the presence of his authorised representative Shri R. L. Sharma through whom the demand notice leading to the present reference had been given, and he has agreed to visit the factory during this period for the said purpose. The claim for reinstatement or re-employment of the workman in the factory has been given up.

The award is accordingly made in terms of the above settlement arrived at between the parties. The management shall pay to the workman his due wages within a week, as agreed, but he will not be entitled to reinstatement or re-employment. In the circumstances there shall be no order as to costs.

Dated 12th November, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1557, dated 14th November, 1974.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 14th November, 1974.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

MISS M. SETH,
Commissioner and Secy.